

DRAWING AMENDMENTS

In the interests of expediting prosecution of the instant application, and without admission that any amendment is necessary, the Applicant has amended the drawings, specifically adding new Fig. 3a, to conform to the specification with respect to the embodiment of the keeping-ready device having two parallel plates. The Applicant avers that no new matter has been introduced. A new sheet containing the aforementioned figure is submitted concurrently herewith.

REMARKS

Claims 1-20 are pending.

Claims 1-20 stand rejected.

Claims 3, 8, 9, 11, and 16 have been canceled, without prejudice.

Claims 1, 4, 10, 17, 19 and 20 have been amended. Support for these amendments can be found throughout the specification and drawings, as originally filed.

The specification has been amended to more clearly define the second plate of the keeping-ready device. The Applicant avers that no new matter has been introduced.

The drawings have been amended. New Fig. 3a has been added to conform to the specification with respect to the embodiment of the keeping-ready device having two parallel plates. The Applicant avers that no new matter has been introduced. A new sheet containing the aforementioned figure is submitted concurrently herewith.

35 USC §112, FIRST PARAGRAPH REJECTION

Claim 10 stands rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for the existence of a second plate, allegedly does not reasonably provide enablement for what this comprises in the context of the claimed invention.

The Applicant respectfully traverses the 35 U.S.C. §112, first paragraph rejection of claim 10.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has provided new Fig. 3a, which clearly depicts the second plate in relation to the first plate, which was fully described in the summary of the invention section of the originally- filed specification at paragraph [0013].

Accordingly, the Applicant contends that the 35 U.S.C. 112, first paragraph rejection of claim 10 has been overcome.

35 USC §112, SECOND PARAGRAPH REJECTION

Claims 1-16 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant respectfully traverses the 35 U.S.C. §112, second paragraph rejection of claims 1-16. Claims 3, 8, 9, 11 and 16 have been canceled, without prejudice.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended line 4 of claim 1 and line 3 of claim 4 in accordance with the Examiner's suggestion, i.e., "the bone screws" has been amended to read "bone screws."

Accordingly, the Applicant contends that the 35 U.S.C. 112, second paragraph rejection of claims 1-2, 4-7, 10, and 12-15 has been overcome.

35 USC §102(e) REJECTION

Claims 1-9, 11-15 and 17-20 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,007,798 to Happonen et al.

The Applicant respectfully traverses the 35 U.S.C. §102(e) rejection of claims 1-9, 11-15 and 17-20. Claims 3, 8, 9, and 11 have been canceled, without prejudice.

The law is clear that anticipation requires that the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language. 35 U.S.C. 102(e).

The law is also clear that a claim in dependent form shall be construed to incorporate all the limitations of the claim to which it refers. 35 U.S.C. 112, fourth paragraph.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 1 to recite, among other things, a system for keeping ready bone screws, comprising a keeping-ready device for the bone screws, wherein the keeping-ready device has a surface with a plurality of orifices for inserting the bone screws and the keeping-ready device allows inserted bone screws to be kept ready countersunk in relation to the surface and a removal instrument for removing a kept-ready bone screw from the keeping-ready device, wherein the removal instrument is dimensioned such that it is insertable into one of the orifices for removal of a kept-ready bone screw, wherein the bone screws include different head shapes, *wherein the orifices are arranged in the surface in a plurality of rows.*

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 4 to recite, among other things, a keeping-ready device for bone screws, comprising a surface in which a plurality of orifices for inserting the bone screws is provided, *wherein the keeping-ready device allows inserted bone screws to be kept ready loosely* and countersunk in relation to the surface, the surface including a first plate having a plate area in which *the orifices are provided in a plurality of rows*, wherein the first plate has a plate thickness wherein the ratio of area to thickness is chosen such that the first plate has no or only slightly springing properties.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 17 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which *orifices are provided for loosely keeping-ready the bone screws* with countersunk bone screw heads in relation to the surface, the orifices having walls that act as a guide for a removal instrument for the bone screws when the removal instrument is inserted into one of the orifices, the surface including a plate having a plate area in which *the orifices are provided in a plurality of rows*, wherein the plate has a plate thickness wherein the ratio of area to thickness is chosen such that the plate has no or only slightly springing properties.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 19 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which a plurality of orifices for inserting the bone screws is provided, wherein the orifices have portions of a reduced inner diameter for cooperating with bone screw heads and wherein the portions of reduced inner diameter are placed such that the bone screw heads are kept ready countersunk in relation to the surface, wherein the bone screws include different head shapes, *wherein the orifices are arranged in the surface in a plurality of rows.*

Happonen et al. teaches no such system of the present invention, as claimed in any of independent claims 1, 4, 17 or 19, or the claims dependent therefrom.

In contradistinction to the above-recited independent claims, Happonen et al. teaches that the screws are disposed in a single row of orifices, as opposed to a plurality of rows as presently claimed, and furthermore, Happonen et al. teaches that the head portion of the screw is tightly engaged against a portion of the orifice wall, as opposed to being loosely received in the orifice as presently claimed.

Because claim 1 is allowable over Happonen et al. for at least the reasons stated above, claim 2, which depends from and further defines claim 1, is likewise allowable. Because claim 4 is allowable over Happonen et al. for at least the reasons stated above, claims 5-7 and 12-15, which depend from and further define claim 4, are likewise allowable. Because claim 17 is allowable over Happonen et al. for at least the reasons stated above, claim 18, which depends from and further defines claim 17, is likewise allowable. Because claim 19 is allowable over Happonen et al. for at least the reasons stated above, claim 20, which depends from and further defines claim 19, is likewise allowable.

Accordingly, the Applicant contends that the 35 U.S.C. 102(e) rejection of claims 1, 2, 4-7, 12-15 and 17-20 has been overcome.

Furthermore, the Applicant submits that Happonen et al. does not render claims 1, 2, 4-7, 12-15 and 17-20 obvious.

The standard for obviousness is that there must be some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability and, thus, the obviousness, of making" the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988). Although the Examiner may suggest the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the desirability of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir.1989). There must be a teaching in the prior art for the proposed combination or modification to be proper. *In re Newell*, 891 F.2d 899, 13 U.S.P.Q.2d (BNA) 1248 (Fed. Cir. 1989). If the prior art fails to provide this necessary teaching, suggestion, or incentive supporting the Examiner's suggested modification, the rejection based upon this suggested modification is error and must be reversed. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990).

As previously noted, Happonen et al. discloses that the screws are disposed in a single row of orifices, as opposed to a plurality of rows as presently claimed, and furthermore, Happonen et al. discloses that a head portion of the screw is tightly engaged against a portion of the orifice wall, as opposed to being loosely received in the orifice as presently claimed.

Thus, one of ordinary skill in the art would not look to Happonen et al. for guidance on a device for keeping bone screws ready, as presently claimed.

35 USC §102(b) REJECTION

Claims 1, 2, 4-9, 11-15 and 17-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,437,368 to Mikels.

The Applicant respectfully traverses the 35 U.S.C. §102(b) rejection of claims 1, 2, 4-9, 11-15 and 17-20. Claims 8, 9 and 11 have been canceled, without prejudice.

The law is clear that anticipation requires that the invention was patented or

described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States. 35 U.S.C. 102(b).

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 1 to recite, among other things, a system for keeping ready bone screws, comprising a keeping-ready device for the bone screws, wherein the keeping-ready device has a surface with a plurality of orifices for inserting the bone screws and the keeping-ready device allows inserted bone screws to be kept ready countersunk in relation to the surface and a removal instrument for removing a kept-ready bone screw from the keeping-ready device, wherein the removal instrument is dimensioned such that it is insertable into one of the orifices for removal of a kept-ready bone screw, *wherein the bone screws include different head shapes, wherein the orifices are arranged in the surface in a plurality of rows.*

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 4 to recite, among other things, a keeping-ready device for bone screws, comprising a surface in which a plurality of orifices for inserting the bone screws is provided, wherein the keeping-ready device allows inserted bone screws to be kept ready loosely and countersunk in relation to the surface, the surface including a first plate having a plate area in which *the orifices are provided in a plurality of rows*, wherein the first plate has a plate thickness wherein the ratio of area to thickness is chosen such that the first plate has no or only slightly springing properties.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 17 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which orifices are provided for loosely keeping-ready the bone screws with countersunk bone screw heads in relation to the surface, the orifices having walls that act as a guide for a removal instrument for the bone screws when the removal instrument is inserted into one of the orifices, the surface including a plate

having a plate area in which *the orifices are provided in a plurality of rows*, wherein the plate has a plate thickness wherein the ratio of area to thickness is chosen such that the plate has no or only slightly springing properties.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 19 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which a plurality of orifices for inserting the bone screws is provided, wherein the orifices have portions of a reduced inner diameter for cooperating with bone screw heads and wherein the portions of reduced inner diameter are placed such that the bone screw heads are kept ready countersunk in relation to the surface, *wherein the bone screws include different head shapes, wherein the orifices are arranged in the surface in a plurality of rows*.

Mikels teaches no such system of the present invention, as claimed in any of independent claims 1, 4 17 or 19, or the claims dependent therefrom.

In contradistinction to the above-recited independent claims, Mikels teaches that the screws are disposed in a single row of orifices, as opposed to a plurality of rows as presently claimed, and furthermore, Mikels teaches that the screws have a single head shape, as opposed to different head shapes as presently claimed.

Because claim 1 is allowable over Mikels for at least the reasons stated above, claim 2, which depends from and further defines claim 1, is likewise allowable. Because claim 4 is allowable over Mikels for at least the reasons stated above, claims 5-7 and 12-15, which depend from and further define claim 4, are likewise allowable. Because claim 17 is allowable over Mikels for at least the reasons stated above, claim 18, which depends from and further defines claim 17, is likewise allowable. Because claim 19 is allowable over Mikels for at least the reasons stated above, claim 20, which depends from and further defines claim 19, is likewise allowable.

Accordingly, the Applicant contends that the 35 U.S.C. 102(b) rejection of claims 1, 2, 4-7, 12-15 and 17-20 has been overcome.

Furthermore, the Applicant submits that Mikels does not render claims 1-2, 4-9, 11-15 and 17-20 obvious.

As previously noted, Mikels discloses that the screws are disposed in a single row of orifices, as opposed to a plurality of rows as presently claimed, and furthermore, Mikels discloses that the screws have a single head shape, as opposed to different head shapes as presently claimed.

Thus, one of ordinary skill in the art would not look to Mikels for guidance on a device for keeping bone screws ready, as presently claimed.

35 USC §102(b) REJECTION

Claims 1, 2, 4-9, 16 and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,955,476 to Nakata et al.

The Applicant respectfully traverses the 35 U.S.C. §102(b) rejection of claims 1-2, 4-9, 16 and 17. Claims 8, 9 and 16 have been canceled, without prejudice.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 1 to recite, among other things, a system for keeping ready bone screws, comprising a keeping-ready device for the bone screws, wherein the keeping-ready device has a surface with a plurality of orifices for inserting the bone screws and the keeping-ready device allows inserted bone screws to be kept ready countersunk in relation to the surface and a removal instrument for removing a kept-ready bone screw from the keeping-ready device, wherein the removal instrument is dimensioned such that it is insertable into one of the orifices for removal of a kept-ready bone screw, *wherein the bone screws include different head shapes*, wherein the orifices are arranged in the surface in a plurality of rows.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 4 to recite, among other things, a keeping-ready device for bone screws, comprising a surface in which a plurality of orifices for inserting the bone screws is provided, wherein the keeping-ready

device allows inserted bone screws to be kept ready loosely and countersunk in relation to the surface, the surface including a first plate having a plate area in which the orifices are provided in a plurality of rows, ***wherein the first plate has a plate thickness wherein the ratio of area to thickness is chosen such that the first plate has no or only slightly springing properties.***

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 17 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which orifices are provided for loosely keeping-ready the bone screws with countersunk bone screw heads in relation to the surface, the orifices having walls that act as a guide for a removal instrument for the bone screws when the removal instrument is inserted into one of the orifices, the surface including a plate having a plate area in which the orifices are provided in a plurality of rows, ***wherein the plate has a plate thickness wherein the ratio of area to thickness is chosen such that the plate has no or only slightly springing properties.***

Nakata et al. teaches no such system of the present invention, as claimed in any of independent claims 1, 4 or 17, or the claims dependent therefrom.

In contradistinction to the above-recited independent claims, Nakata et al. teaches mechanical screws (i.e., not bone screws) that have a single head shape, as opposed to different head shapes as presently claimed and furthermore, Nakata et al. teaches that the screws are carried in an extremely thin carrier strip, wherein they are subjected to powerful vacuum and rotational forces, thus in doubt imparting strong vibrational forces to the extremely thin carrier strip, as opposed to a plate that is configured so as to have no or only slightly springing properties as presently claimed.

Because claim 1 is allowable over Nakata et al. for at least the reasons stated above, claim 2, which depends from and further defines claim 1, is likewise allowable. Because claim 4 is allowable over Nakata et al. for at least the reasons stated above, claims 5-7, which depend from and further define claim 4, are likewise allowable.

Accordingly, the Applicant contends that the 35 U.S.C. 102(b) rejection of claims 1, 2, 4-7 and 17 has been overcome.

Furthermore, the Applicant submits that Nakata et al. does not render claims 1, 2, 4-7 and 17 obvious.

As previously noted, Nakata et al. discloses mechanical screws (i.e., not bone screws) that have a single head shape, as opposed to different head shapes as presently claimed and furthermore, Nakata et al. discloses that the screws are carried in an extremely thin carrier strip, wherein they are subjected to powerful vacuum and rotational forces, thus in doubt imparting strong vibrational forces to the extremely thin carrier strip, as opposed to a plate that is configured so as to have no or only slightly springing properties as presently claimed.

Thus, one of ordinary skill in the art would not look to Nakata et al. for guidance on a device for keeping bone screws ready, as presently claimed.

35 USC §103(a) REJECTION

Claims 1-2, 4-9 and 11-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,830,573 to Strong in view of either U.S. Patent No. 5,437,368 to Mikels and U.S. Patent No. 4,955,476 to Nakata et al.

The Applicant respectfully traverses the 35 U.S.C. §103(a) rejection of claims 1-2, 4-9 and 11-20. Claims 3, 8, 9, 11 and 16 have been canceled, without prejudice.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 1 to recite, among other things, a system for keeping ready bone screws, comprising a keeping-ready device for the bone screws, wherein the keeping-ready device has a surface with a plurality of orifices for inserting the bone screws and *the keeping-ready device allows inserted bone screws to be kept ready countersunk in relation to the surface* and a removal instrument for removing a kept-ready bone screw from the keeping-ready device, wherein the removal instrument is dimensioned such that it is insertable into one of the orifices for removal of a kept-ready bone screw, *wherein the bone screws include different head shapes, wherein*

the orifices are arranged in the surface in a plurality of rows.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 4 to recite, among other things, a keeping-ready device for bone screws, comprising a surface in which a plurality of orifices for inserting the bone screws is provided, ***wherein the keeping-ready device allows inserted bone screws to be kept ready loosely and countersunk in relation to the surface***, the surface including a first plate having a plate area in which ***the orifices are provided in a plurality of rows, wherein the first plate has a plate thickness wherein the ratio of area to thickness is chosen such that the first plate has no or only slightly springing properties.***

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 17 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which ***orifices are provided for loosely keeping-ready the bone screws with countersunk bone screw heads in relation to the surface***, the orifices having walls that act as a guide for a removal instrument for the bone screws when the removal instrument is inserted into one of the orifices, the surface including a plate having a plate area in which ***the orifices are provided in a plurality of rows***, wherein the plate has a plate thickness wherein the ratio of area to thickness is chosen such that the plate has no or only slightly springing properties.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 19 to recite, among other things, a device for keeping bone screws ready, the bone screws having bone screw heads and the device comprising a surface in which a plurality of orifices for inserting the bone screws is provided, wherein the orifices have portions of a reduced inner diameter for cooperating with bone screw heads and wherein the portions of reduced inner diameter are placed such that ***the bone screw heads are kept ready countersunk in relation to the surface, wherein the bone screws include different head shapes, wherein the orifices are arranged in the surface in a plurality of rows.***

As previously noted, Mikels does not disclose that the screws are disposed in a plurality of rows, as presently claimed, and furthermore, Mikels does not disclose that the screws have different head shapes, as presently claimed.

Also as previously noted, Nakata et al. does not disclose bone screws having different head shapes, as presently claimed, and furthermore, Nakata et al. does not disclose that the screws are carried in an a plate that is configured so as to have no or only slightly springing properties as presently claimed.

Strong does not cure the deficiencies in the disclosures of Mikels or Nakata et al., and these references, even in combination with one another, do not suggest the claimed invention.

Initially, Strong teaches away from the claimed invention in that it discloses a strip of screws that a fastened together by a runner portion, thus it is impossible for the screws to be loosely held and kept ready countersunk to a surface, as presently claimed. Additionally, like Mikels, Strong fails to disclose a plurality of rows for receiving the screws as well as screws having different head shapes. Furthermore, like Nakata et al., Strong discloses that the screws are carried in an even flimsier runner strip, wherein they are subjected to powerful punch-like forces, thus in doubt imparting strong vibrational forces to the extremely thin runner strip. Thus, the three references appear to teach against one another on several different bases.

Thus, one of ordinary skill in the art would not look to Strong, Mikels and/or Nakata et al., either alone or in combination therewith, for guidance on a device for keeping bone screws ready, as presently claimed.

Because claim 1 is allowable over Strong, Mikels and/or Nakata et al., either alone or in combination therewith, for at least the reasons stated above, claim 2, which depends from and further defines claim 1, is likewise allowable. Because claim 4 is allowable over Strong, Mikels and/or Nakata et al., either alone or in combination therewith, for at least the reasons stated above, claims 5-7 and 12-15, which depend from and further define claim 4, are likewise allowable. Because claim 17 is allowable over Strong, Mikels and/or Nakata et al., either alone or in combination therewith, for at least the reasons stated above, claim 18,

which depends from and further defines claim 17, is likewise allowable. Because claim 19 is allowable over Strong, Mikels and/or Nakata et al., either alone or in combination therewith, for at least the reasons stated above, claim 20, which depends from and further defines claim 19, is likewise allowable.

Accordingly, the Applicant contends that the 35 U.S.C. 103(a) rejection of claims 1, 2, 4-7, 12-15 and 17-20 has been overcome.

CONCLUSION

In view of the foregoing, the Applicant respectfully requests reconsideration and reexamination of the Application. The Applicant respectfully submits that each item raised by Examiner in the Office Action of May 11, 2006 has been successfully traversed, overcome or rendered moot by this response. The Applicant respectfully submits that each of the claims in this Application is in condition for allowance and such allowance is earnestly solicited.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 723-0487 if any unresolved matters remain.

Any needed extension of time is hereby requested with the filing of this document.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 08-2789 for this matter.

Respectfully submitted,

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